

Translation

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PATENT COOPERATION TREATY

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PCT/FR2003/002725



# PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference AM 1885-PGR/db	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/FR2003/002725	International filing date (day/month/year) 16 septembre 2003 (16.09.2003)	Priority date (day/month/year) 19 septembre 2002 (19.09.2002)
International Patent Classification (IPC) or national classification and IPC A01N 41/12		
Applicant ARKEMA		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 5 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of \_\_\_\_\_ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 07 avril 2004 (07.04.2004)	Date of completion of this report 03 March 2005 (03.03.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/FR2003/002725

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
pages \_\_\_\_\_ 1-8 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
pages \_\_\_\_\_ 1-7 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, as amended (together with any statement under Article 19  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the drawings:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
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## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

Novelty (N)	Claims		YES
	Claims	1	NO
Inventive step (IS)	Claims		YES
	Claims	1-7	NO
Industrial applicability (IA)	Claims	1-7	YES
	Claims		NO

## 2. Citations and explanations

Reference is made to the following documents:

D1: FR-A-2 779 615

D2: US-A-2 917 429

The present application fails to meet the requirements of PCT Article 33(1), since the subject matter of claim 1 does not comply with the criterion of novelty as defined by PCT Article 33(2).

D1 describes a method for treating stored foodstuffs using a volatile sulphide derivative pesticide. Such products constitute the smell of plants of the *Allium* genus (compare page 3, lines 24 to 26, of the present application). The presently claimed disulphides are included among these products. They act by spontaneous diffusion as described in example 1 of the present application. The method according to claim 1 is therefore not novel over D1.

Other parts of the present application fail to meet the requirements of PCT Article 33(1), since the subject matter of claims 1 to 7 does not involve an inventive step as defined by PCT Article 33(3).

The sulphur compounds according to the formula provided in claim 1 of the present application are known from D2 for their pesticide activity. Said compounds are applied by spraying. Using a product by fogging cannot involve an inventive step, since this method is commonplace in the field of pesticide application. Said method cannot therefore be considered specific to the present application and consequently the subject matter of claims 1 to 7 does not propose an inventive solution to the stated problem (PCT Article 33(3)).

The term "fogging" appears to lead to a lack of clarity in the claimed subject matter, since the examples provide no instructions for carrying out fogging. Example 1 studies spontaneous diffusion whereas in example 3 the active compound is sprayed. If the application is pursued, this term must be described more precisely.